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OFFICE OF PETITIONS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Hiroyuki Nitta et al.

Serial No.: 09/883,210

Filed: June 19, 2001

Group Art Unit: 2815

Examiner: J. Nguyen

Atty. Dkt. No. 01701.00086

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MAY 17 2004

OFFICIAL

For: Semiconductor Device Having A Wiring Layer Of Damascene Structure And Method
For Manufacturing The Same

Inquiry Under 37 CFR 1.137 b

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Office of Petitions

Sir:

The undersigned certifies that this paper of 13 pages (1 page
+ 12 page attachment) is being faxed to 703 872 9306.

Christopher R. Glembocki
Christopher R. Glembocki
Reg. No. 38,800

Applicants submitted the attached Request to Withdraw the Holding of Abandonment and Petition to Revive Unintentional. Applicants received a decision (attached) on the Request to Withdraw the Holding of Abandonment. However, Applicants have not received a response on the Petition to Revive Unintentional.

Applicants have been charged the fee for the Petition to Revive (\$1300) on February 3, 2003, but have not received the decision.

Please inform the undersigned when a decision on the Petition will be mailed.

Please charge any fee associated with the filing of this paper to our Deposit Account No. 19-0733.

Respectfully submitted,

By:

Christopher R. Glembocki
Christopher R. Glembocki
Registration No. 38,800

BANNER & WITCOFF, LTD.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001
(202) 824-3000

Dated: May 17, 2004

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TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

App. for use through 01/31/2003, OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1300

Complete if Known

Application Number 09/883,210
Filing Date June 19, 2001
First Named Inventor Hiroyuki Nitta et al.
Examiner Name Joseph Nguyen
Art Unit 2815
Attorney Docket No. 001701.00088

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METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None
Order

☐ Deposit Account:

Deposit
Account
Number

19-0733

Deposit
Account
Name

Banner & Witcoff, Ltd.

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments
☐ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1001	750	Utility filing fee	
		1002	330	Design filing fee	
		1003	520	Plant filing fee	
		1004	750	Reissue filing fee	
		1005	160	Provisional filing fee	

SUBTOTAL (1)

(\$) 0

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
	0	0	0
Independent Claims	0	0	0
Multiple Dependent	X	0	0

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description
		1202	18	Claims in excess of 20
		1201	84	Independent claims in excess of 3
		1203	280	Multiple dependent claim, if not paid
		1204	84	** Reissue independent claims over original patent
		1205	18	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1051	130	Surcharge - late filing fee or oath or cover sheet	
		1052	50	Surcharge - late provisional filing fee or cover sheet	
		1053	130	Non-English specification	
		1812	2,520	For filing a request for expedited reexamination	
		1804	920*	Requesting publication of SIR prior to Examiner action	
		1805	1,840*	Requesting publication of SIR after Examiner action	
		1251	110	Extension for reply within first month	
		1252	410	Extension for reply within second month	
		1253	930	Extension for reply within third month	
		1254	1,450	Extension for reply within fourth month	
		1255	1,970	Extension for reply within fifth month	
		1401	320	Notice of Appeal	
		1402	320	Filing a brief in support of an appeal	
		1403	280	Request for oral hearing	
		1451	1,510	Petition to institute a public use proceeding	
		1452	110	Petition to revive - unavoidable	
		1453	1,300	Petition to revive - unintentional	1300
		1501	1,300	Utility issue fee (or reissue)	
		1502	470	Design issue fee	
		1503	630	Plant issue fee	
		1460	130	Petitions to the Commissioner	
		1807	50	Processing fee under 37 CFR 1.17 (q)	
		1806	180	Submission of Information Disclosure Stmt	
		8021	40	Recording each patent assignment per property (times number of properties)	
		1809	750	Filing a submission after final rejection (37 CFR § 1.129(a))	
		1810	750	For each additional invention to be examined (37 CFR § 1.129(b))	
		1801	750	Request for Continued Examination (RCE)	
		1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$) 1300

SUBMITTED BY

Name (Print/Type)	Christopher R. Glembocki	Registration No. Attorney/Agent	38,800	Telephone	202 824 3000
Signature	<i>Christopher R. Glembocki</i>	Date	January 30, 2003		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2035.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231

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Paper No. 9

BANNER & WITCOFF
1001 G. Street N.W.
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BANNER & WITCOFF
Noted

OFFICE OF PETITIONS

JUL -2 2003

In re Application of
Hiroyuki Nitta et al.
Application No. 09/883,210
Filed: June 19, 2001
Attorney Docket No. 01701.00086

DECISION ON PETITION

This is a decision on the petition filed January 30, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn, or in the alternative, to revive the application under 37 C.F.R. 1.137(b)¹.

The petition to withdraw the holding of abandonment is DENIED.

A restriction requirement and an election of species requirement were mailed February 7, 2002, setting a one-month shortened statutory period for filing a response. On March 5, 2002, applicant responded to the restriction requirement, but failed to elect a species for examination purposes. The March 5, 2002 response was held non-responsive and another Office action was mailed March 22, 2002, setting a one month shorten statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed January 17, 2003.

Petitioner asserts that a response was timely filed by facsimile transmission on April 19, 2002 together with a preliminary amendment. To support the assertion, petitioner submitted 1) a copy of a response entitled "Response to Election Requirement" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated April 19, 2002, 2) a

¹This decision addresses the petition to withdraw the holding of abandonment only. A decision on the petition under 37 C.F.R. § 1.137(b) will be addressed by the Deputy Commissioner for Patent Examination Policy.

Application No. 09/883,210
On Petition

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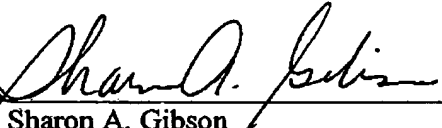
copy of a paper entitled "Amendment" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated April 19, 2002, 3) a copy of the sending unit's report confirming successful transmission of the Amendment on April 19, 2002.

The file record does not include the originally submitted papers.

A review of the record does not show evidence that the election was in fact sent by way of facsimile transmission with a report of successful transmission thereof. The copy of the sending unit's report confirming successful transmission of the Amendment on April 19, 2002 does not support timely facsimile transmission of the "Response to Election Requirement." Further, the sending unit's report shows transmission of three pages, not enough pages to support sending of the election also.

The petition does not satisfy the conditions for accepting a response filed using a certificate of transmission under 37 C.F.R. § 1.8(a) but lost after being received by the USPTO. Accordingly, the petition is denied.

The application filed is being forwarded to the Deputy Commissioner for Patent Examination Policy, Office of Petitions, for consideration of the Petition to Revive Unintentional.



Sharon A. Gibson
Technology Center 2800 Director
Semiconductors, Electrical and Optical
Systems and Components